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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/490,867

01/24/2000

Sam E. Kinney JR.

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7744

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7590

10/11/2006

BLAKELY SOKOLOFF TAYLOR & ZAFMAN  
12400 WILSHIRE BOULEVARD  
SEVENTH FLOOR  
LOS ANGELES, CA 90025-1030

EXAMINER

GREIMEL, JOCELYN

ART UNIT

PAPER NUMBER

3693

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/490,867

Applicant(s)

KINNEY, SAM E.

Examiner

Jocelyn Greimel

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 16-20 and 39-44 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 16-20 and 39-44 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

1. The following is a Final Office Action in response to the communication filed by Applicant on August 07, 2006. Claims 1-10, 16-20 and 39-44 are pending in the application. Claims 11-15, 21-38 and 45-46 have been cancelled. Claims 1, 6, 16, 39, 41 and 43 are independent claims.

### ***Response to Amendment***

2. Applicant's arguments regarding:

- (1) "a selected price value is transformed into different comparative bid parameters based on characteristics of an auction item"
- (2) "using these comparative bid parameter values to create different auction views"
- (3) "sequentially transmitting information reflective of a sequence of bid values...in the absence of an acceptance of a posted price by the other bidder"

of claims 1-10, 16-20 and 39-44 have been considered but found not persuasive.

3. Issue no. (1): Applicant's argue: Ausubel, Rackson and Nemzow, alone or in combination, do not teach: a selected price value is transformed into different comparative bid parameters based on characteristics of an auction item as recited in the claims. Response: The

Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

Claim Interpretation; Broadest Reasonable Interpretation:

<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification.” Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

4. The combination of Ausubel, Rackson and Nemzov disclose a selected price value is transformed into different comparative bid parameters based on characteristics of an auction item. **Nemzow teaches transforming a price for an item (based upon the characteristics of the item) to another currency. The new currency price can be seen as a new comparative bid parameter** (Nemzow: col. 1, lines 19-40; col. 6, lines 46-67 – col. 7, lines 1-2). Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant’s are respectfully requested to point out to the Examiner which claim limitations in the claims are considered to be the inventive concept because the inventive concept can not be determined from the claim limitations as written.

5. Issue no. (2): Applicant’s argue: Ausubel, Rackson and Nemzov, alone or in combination, do not teach using the comparative bid parameter values to create different auction views as recited in the claims. Response: The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

Claim Interpretation; Broadest Reasonable Interpretation:

<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification.” Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

6. The combination of Ausubel, Rackson and Nemzov disclose using the comparative bid parameter values to create different auction views as recited in the claims. **Nemzow teaches a first auction view (presented to the potential bidder in a first type of currency) and a second auction view (presented to the potential bidder in a second type of currency) (Nemzow: col. 1, lines 19-40; col. 6, lines 46-67 – col. 7, lines 1-2).** Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant’s are respectfully requested to point out to the Examiner which claim limitations in the claims are considered to be the inventive concept because the inventive concept can not be determined from the claim limitations as written.

7. Issue no. (3): Applicant’s argue: Ausubel, Rackson and Nemzov, alone or in combination, do not teach sequentially transmitting information reflective of a sequence of bid values to a set of potential bidders, the transmitting being continued until an ending value in the sequence is reached in the absence of an acceptance of a posted price by these bidders, and sequentially transmitting, to another bidder, information reflective of the sequence of bid values up until a defined value preceding the ending value is reached, in the absence of an acceptance of

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a posted price by the other bidder as recited in the claims. Response: The Examiner is entitled to give the claim limitations their broadest reasonable interpretation in light of the Specification (see below):

Claim Interpretation; Broadest Reasonable Interpretation:

<CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION

During patent examination, the pending claims must be “given the broadest reasonable interpretation consistent with the specification.” Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).>

8. The combination of Ausubel, Rackson and Nemzov disclose the system detailed above:
  - a. sequentially transmitting information reflective of a sequence of bid values to a set of potential bidders (“displaying the current best bid while the auction is in process”; “showing the status of a plurality of bidders” (Harrington: col. 4, lines 34-67));
  - b. the transmitting being continued until an ending value in the sequence is reached in the absence of an acceptance of a posted price by these bidders (“if the submitted bid is higher than the current highest bid, it becomes the new current highest bid and, if desired, is made available to all bidders” (Harrington: col. 5, lines 1-42));
  - c. and sequentially transmitting, to another bidder, information reflective of the sequence of bid values up until a defined value preceding the ending value is reached, in the absence of an acceptance of a posted price by the other bidder (and “at the close of the auction, the auctioneer’s computer notifies the bidders’ computers of the successful bid” (Harrington: col. 4, lines 34-67)).

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9. Conclusion: Conclusion: Under their broadest reasonable interpretation in light of the Specification, the claims are taught and no inventive concept is found. Applicant's are respectfully requested to point out to the Examiner which claim limitations in the claims are considered to be the inventive concept because the inventive concept can not be determined from the claim limitations as written.

*Conclusion*

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached Monday - Friday 8:30 AM - 4:30 PM EST.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached at (571) 272-6712. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel  
Examiner, Art Unit 3693  
August 21, 2006



ELLA COLBERT  
PRIMARY EXAMINER